

AMENDED IN ASSEMBLY MARCH 28, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 2670**

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**Introduced by Committee on Natural Resources (Assembly Members Chesbro (Chair), Brownley, Dickinson, Halderman, Huffman, Monning, and Skinner)**

March 5, 2012

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An act to amend Sections ~~41770~~, 42301, 42649.1, and 42649.3 of, and to repeal Section ~~41751~~ of, the Public Resources Code, relating to solid waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2670, as amended, Committee on Natural Resources. Solid waste plans: recycling.

~~(1) The California Integrated Waste Management Act of 1989 requires each city, county, city and county, and regional agency, to develop an integrated waste management plan containing specified components, including a source reduction and recycling element. The countywide or regional plan is required to be reviewed, revised, and submitted to the Department of Resources Recycling and Recovery every 5 years. The revision is required to use a waste disposal characterization method developed by the department. The county plan is also required to include a summary of certain waste management problems facing the county.~~

~~This bill would repeal these requirements regarding the review, revision, and submission of the plan, the use of a waste disposal characterization method, and the inclusion of the summary.~~

~~(2) The act~~

(1) *The California Integrated Waste Management Act of 1989* requires rigid plastic packaging containers that are sold or offered for sale in this state to meet, on average, one of specified criteria and defines terms for purposes of those requirements. One of those criteria that a rigid plastic packaging container may meet to satisfy this requirement is that the container be source reduced. The act provides for the enforcement of these requirements by the department and provides that an entity making a false certification pursuant to those requirements is subject to a violation for fraud.

This bill would revise the definitions of the various terms used in the those requirements, including revising the definition of the term “source reduced” to impose new requirements, thereby imposing a state-mandated local program by changing the definition of a crime.

(3)

(2) The act requires a business, which is defined as a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more, to arrange for recycling services. Existing law also requires jurisdictions to implement a commercial solid waste recycling program meeting specified elements. Existing law defines the term “commercial solid waste” by reference to a specified regulation.

This bill would instead define commercial solid waste in statute to include all types of solid waste generated by a store, office, or other commercial or public entity source, including a business or a multifamily dwelling of 5 or more units, thereby imposing a state-mandated local program by imposing new requirements upon local jurisdictions.

(4)

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 41751 of the Public Resources Code is~~  
2     ~~repealed.~~

1     ~~SEC. 2. Section 41770 of the Public Resources Code is~~  
2     ~~amended to read:~~

3     ~~41770. The board may review and revise its regulations~~  
4     ~~governing the contents of revised source reduction and recycling~~  
5     ~~elements to reduce duplications in one or more components of~~  
6     ~~these revised elements.~~

7     ~~SEC. 3.~~

8     ~~SECTION 1.~~ Section 42301 of the Public Resources Code is  
9     ~~amended to read:~~

10    42301. For purposes of this chapter, the following definitions  
11    apply:

12    (a) “Container manufacturer” means a company or a successor  
13    company that manufactures and sells any rigid plastic packaging  
14    container subject to this chapter to a manufacturer that sells or  
15    offers for sale in this state any product packaged in that container.

16    (b) “Curbside collection program” means a recycling program  
17    that collects materials set out by households for collection at the  
18    curb at intervals not less than every two weeks. “Curbside  
19    collection program” does not include redemption centers, buyback  
20    locations, drop-off programs, material recovery facilities, or plastic  
21    recovery facilities.

22    (c) “Refillable package” means a rigid plastic packaging  
23    container that is routinely returned to and refilled by the product  
24    manufacturer or its agent at least five times with the original  
25    product contained by the rigid plastic packaging containers.

26    (d) “Reusable package” means a rigid plastic packaging  
27    container that is routinely reused by consumers at least five times  
28    to store the original product contained by the package.

29    (e) “Manufacturer” means the producer or generator of a product  
30    that is sold or offered for sale in the state and that is stored inside  
31    of a rigid plastic packaging container.

32    (f) “Rigid plastic packaging container” means a plastic  
33    packaging container having a relatively inflexible finite shape or  
34    form, with a minimum capacity of eight fluid ounces or its  
35    equivalent volume and a maximum capacity of five fluid gallons  
36    or its equivalent volume, that is capable of maintaining its shape  
37    while holding other products, including, but not limited to, bottles,  
38    cartons, and other receptacles, for sale or distribution in the state.

1 (g) (1) “Postconsumer material” means a material that would  
2 otherwise be destined for solid waste disposal, having completed  
3 its intended end use and product lifecycle.

4 (2) Except as provided in paragraph (3), postconsumer material  
5 does not include materials and byproducts generated from, and  
6 commonly reused within, an original manufacturing and fabrication  
7 process.

8 (3) “Postconsumer material” includes finished plastic packaging  
9 that has been rejected by a container or product manufacturer, and  
10 that would be commonly disposed of, if the department determines  
11 the material is later used in a process that is other than an original  
12 manufacturing and fabrication process.

13 (h) “Recycled” means a product or material that has been reused  
14 in the production of another product and has been diverted from  
15 disposal in a landfill.

16 (i) “Recycling rate” means the proportion, as measured by  
17 weight, volume, or number, of a rigid plastic packaging container  
18 sold or offered for sale in the state that is being recycled in a given  
19 calendar year, that is one of the following:

20 (1) A particular type of rigid plastic packaging container, such  
21 as a milk jug, soft drink container, or detergent bottle.

22 (2) A product-associated rigid plastic packaging container.

23 (3) A single resin type, as specified in Section 18015, of rigid  
24 plastic packaging container, notwithstanding the exemption of that  
25 container from this chapter pursuant to subdivision (b), (c), or (d)  
26 of Section 42340.

27 (j) (1) “Source reduced container” means a rigid plastic  
28 container for which the container weight per unit or number of  
29 product uses has been reduced by 10 percent when compared with  
30 one of the following:

31 (A) The rigid plastic packaging container used for the product  
32 by the manufacturer on January 1, 1995.

33 (B) The rigid plastic packaging container used for that product  
34 by the product manufacturer over the course of the first full year  
35 of commerce in this state.

36 (C) A rigid plastic packaging container used in commerce in  
37 this state during the same year for similar products in similar rigid  
38 plastic packaging containers by the product manufacturer whose  
39 containers have not been considered source reduced, or a particular  
40 type of rigid plastic packaging container that is used to hold a

1 similar product by other product manufacturers, as determined by  
2 the department, whose containers have not been considered source  
3 reduced.

4 (2) A rigid plastic packaging container is not a source reduced  
5 container for the purposes of this chapter if the reduction was  
6 achieved by any of the following:

7 (A) Substituting a different material type for a material that  
8 previously constituted the principal material of the container.

9 (B) Increasing a container's weight per unit or number of  
10 product uses after January 1, 1991.

11 (C) Packaging changes that adversely affect the potential for  
12 the rigid plastic packaging container to be recycled or to be made  
13 of postconsumer material.

14 (k) "Product-associated rigid plastic packaging container" means  
15 a brand-specific, rigid plastic packaging container line that may  
16 have one or more sizes, shapes, or designs and that is used in  
17 conjunction with a particular generic product line.

18 (l) "PETE" means polyethylene terephthalate as specified in  
19 subdivision (a) of Section 18015.

20 (m) "HDPE" means high-density polyethylene.

21 ~~SEC. 4.~~

22 *SEC. 2.* Section 42649.1 of the Public Resources Code is  
23 amended to read:

24 42649.1. For purposes of this chapter, the following shall apply:

25 (a) "Business" means a commercial or public entity, including,  
26 but not limited to, a firm, partnership, proprietorship, joint stock  
27 company, corporation, or association that is organized as a  
28 for-profit or nonprofit entity, or a multifamily residential dwelling.

29 (b) "Commercial solid waste" includes all types of solid waste  
30 generated by a store, office, or other commercial or public entity  
31 source, including a business or a multifamily dwelling of five or  
32 more units.

33 (c) "Commercial waste generator" means a business subject to  
34 subdivision (a) of Section 42649.2.

35 (d) "Self-hauler" means a business that hauls its own waste  
36 rather than contracting for that service.

37 ~~SEC. 5.~~

38 *SEC. 3.* Section 42649.3 of the Public Resources Code is  
39 amended to read:

1     42649.3. (a) On and after July 1, 2012, each jurisdiction shall  
2     implement a commercial solid waste recycling program appropriate  
3     for that jurisdiction designed to divert commercial solid waste  
4     from businesses subject to Section 42649.2, whether or not the  
5     jurisdiction has met the requirements of Section 41780.

6     (b) If a jurisdiction already has a commercial solid waste  
7     recycling program as one of its diversion elements that meets the  
8     requirements of this section, it shall not be required to implement  
9     a new or expanded commercial solid waste recycling program.

10    (c) The commercial solid waste recycling program shall be  
11    directed at a commercial waste generator, as defined in subdivision  
12    (c) of Section 42649.1, and may include, but is not limited to, any  
13    of the following:

14    (1) Implementing a mandatory commercial solid waste recycling  
15    policy or ordinance.

16    (2) Requiring a mandatory commercial solid waste recycling  
17    program through a franchise contract or agreement.

18    (3) Requiring all commercial solid waste to go through either  
19    a source separated or mixed processing system that diverts material  
20    from disposal.

21    (d) The commercial solid waste recycling program shall include  
22    education, outreach to, and monitoring of, businesses. A  
23    jurisdiction shall notify a business if the business is not in  
24    compliance with Section 42649.2.

25    (e) The commercial solid waste recycling program may include  
26    enforcement provisions that are consistent with a jurisdiction's  
27    authority, including a structure for fines and penalties.

28    (f) The commercial solid waste recycling program may include  
29    certification requirements for self-haulers.

30    (g) The department shall review a jurisdiction's compliance  
31    with this section as part of the department's review required by  
32    Section 41825. Each jurisdiction shall report the progress achieved  
33    in implementing its commercial recycling program, including  
34    education, outreach, identification, and monitoring, and if  
35    applicable, enforcement efforts, by providing updates in the annual  
36    report required by Section 41821.

37    (h) The department may also review whether a jurisdiction is  
38    in compliance with this section at any time that the department  
39    receives information that a jurisdiction has not implemented, or is

1 not making a good faith effort to implement, a commercial  
2 recycling program.

3 (i) During its review pursuant to subdivision (g) or (h), the  
4 department shall determine whether each jurisdiction has made a  
5 good faith effort to implement its selected commercial recycling  
6 program. For purposes of this section, “good faith effort” means  
7 all reasonable and feasible efforts by a jurisdiction to implement  
8 its commercial recycling program. During its review, the  
9 department may include, but is not limited to, the following factors  
10 in its evaluation of a jurisdiction’s good faith effort:

11 (1) The extent to which businesses have complied with Section  
12 42649.2, including information on the amount of disposal that is  
13 being diverted from the businesses, if available, and on the number  
14 of businesses that are subscribing to service.

15 (2) The recovery rate of the commercial waste from the material  
16 recovery facilities that are utilized by the businesses, all  
17 information, methods, and calculations, and any additional  
18 performance data, as requested by the department from the material  
19 recovery facilities pursuant to Section 18809.4 of Title 14 of the  
20 California Code of Regulations.

21 (3) The extent to which the jurisdiction is conducting education  
22 and outreach to businesses.

23 (4) The extent to which the jurisdiction is monitoring businesses,  
24 and notifying those businesses that are out of compliance.

25 (5) The availability of markets for collected recyclables.

26 (6) Budgetary constraints.

27 (7) In the case of a rural jurisdiction, the effects of small  
28 geographic size, low population density, or distance to markets.

29 ~~SEC. 6.~~

30 *SEC. 4.* No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 a local agency or school district has the authority to levy service  
33 charges, fees, or assessments sufficient to pay for the program or  
34 level of service mandated by this act or because costs that may be  
35 incurred by a local agency or school district will be incurred  
36 because this act creates a new crime or infraction, eliminates a  
37 crime or infraction, or changes the penalty for a crime or infraction,  
38 within the meaning of Section 17556 of the Government Code, or

- 1 changes the definition of a crime within the meaning of Section 6
- 2 of Article XIII B of the California Constitution.

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